IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 11313 of 2007(V)

PETITIONER:

K.SAJAN, CONTRACTOR, SANJAY BHAVAN,\
P.O.NETTUT, THALASSERY – 670105.

BY ADV. SRI.S.ARUN RAJ
SMT.C.T.SUJA

RESPONDENTS:

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1. COMMERCIAL TAX OFFICER (WC & LT), KANNUR.

2. DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, KOZHIKODE.

3. TAHSILDAR, REVENUE RECOVERY, THALASSERY.

4. SUB INSPECTOR OF POLICE, DHARMADAM POLICE STATION, THALASSERY.

BY SR. GOVT. PLEADER SRI.MOHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 11313 OF 2007-V

JUDGMENT

The petitioner is engaged in works contract for the Railways. He filed returns for the assessment year 2002-03, conceding a turnover of Rs.7,65,000/-. He did not produce any Form 21C certificate or Form 21B application for permission to pay the tax at the compounded rate. So, the assessing authority allowed 30% deduction for labour charges and proposed to tax the balance turnover at 8%. The pre-assessment notice was also served on the petitioner. But, he did not respond to it. So, tax was assessed as proposed. According to the petitioner, he was laid up and that was the reason for not responding to the pre-assessment notice. Further, the Railways have deducted 2% tax when the bills were paid to the petitioner. Form 21C certificate and Form 21B application are produced by him along with Ext.P2 appeal before the statutory appellate authority. He prayed for interim stay of recovery of the tax due. The said application was disposed of by Ext.P6 order, directing him to pay 40% of the balance tax on or before 28.3.2007. Since the petitioner failed to pay the tax, his Maruti car has been attached by respondents 3 and 4. The petitioner attacks Ext.P6.

According to him, no tax will be due, if the application for compounding is allowed, taking into account Form 21C certificate produced by him.

2. Heard the learned Government Pleader for the respondents also. Going by the facts of the case, only the petitioner's lapses resulted in the assessment order. So, I feel that stay has been granted on very liberal terms, as he is directed to pay only 40% of the balance tax. But, it is ordered that the balance tax to be paid by him shall be computed after giving credit for 2% of the amount deducted by the Railways. The petitioner may pay the balance amount on or before 16.4.2007. If the petitioner pays 20% of the balance amount, the vehicle attached shall be released to him forthwith. The balance 20% shall be paid on or before 16.4.2007, as directed above.

The Writ Petition is disposed of as above.

2nd April, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/